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HUMAN RIGHTS COMMITTEE

Fifty-first session

SUMMARY RECORD OF THE 1322nd MEETING

Held at the Palais des Nations, Geneva,
on Tuesday, 5 July 1994, at 3 p.m.

Chairman: Mr. ANDO

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The meeting was called to order at 3.15 p.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Third periodic report of Jordan (CCPR/C/76/Add.1; HRI/CORE/1/Add.18/Rev.1) (continued)

1. At the invitation of the Chairman, the Jordanian delegation took places at the Committee table.

2. The CHAIRMAN invited members of the Committee to continue their discussion of section I of the list of issues to be taken up in connection with the consideration of the third periodic report of Jordan (CCPR/C/76/Add.1).

3. Mr. POCAR requested clarification of the role, especially in legal affairs, of the Jordanian National Charter. Although the Charter was neither a law nor a part of the Constitution, it set out a number of constitutional principles that were intended to guide politicians in their legislative and administrative decision-making. Some of those principles suggested that they were intended to fill gaps in the Constitution, particularly in respect of equality between the sexes. While he assumed that any law that was at variance with the Constitution would be abrogated, he wondered whether the same would be true of a law that was at variance with the National Charter, and whether a judge could accord the Charter precedence over an existing law.

4. Although the situation of women in Jordan had improved, the number active in politics remained extremely low. With regard to the information presented earlier that two women had become members of the "Council of Notables", he asked whether that was a reference to the Senate or to another body.

5. Mr. WENNERGREN said he wished to revert to the question of participation of women in public affairs. Recalling that subparagraph (h) of section I of the list of issues referred to the elections of 1989, he said it would be interesting to have information on the 1992 elections, to learn how many women had stood for election and whether any of them had been elected to the National Assembly or the Senate.

6. He did not understand the English version of article 125 of the Jordanian Constitution, in its reference to a law that lifted the responsibility of individuals who followed the King's orders when martial law was in force. It was difficult to see how government agents could be prosecuted for having followed the King's orders, although prosecution should be possible in cases of abuse of power. What was the actual situation?

7. Mr. EL SHAFEI said he had expected the third periodic report of Jordan to cover more ground and to focus on obstacles to the exercise of the rights set out in the Covenant. Nevertheless, he had no doubt that the current discussions with the Jordanian delegation would make it possible to fill the gaps in the report. He wished to know whether the administrative tribunal and the Constitutional Court referred to in the core document (HRI/CORE/1/Add.18/Rev.1) had been set up. In comparing the Constitution to

the National Charter, he had noted that article 7 of the Constitution did not reflect the rights and freedoms set out in the Charter, and asked whether the Constitution would be amended accordingly. The report stated that the legislation on the state of emergency was to be revised; had a commission been set up for that purpose and, if so, what had been its proposals and recommendations? Lastly, he requested further information on the legislation under which some Jordanian citizens had had their passports revoked.

8. Mr. NDIAYE said he considered the reference in paragraph 31 of the core document (HRI/CORE/1/Add.18/Rev.1) to human rights, human dignity and fundamental freedoms, the principles of which were established by Islam, to be of particular importance, since a great many Parties to the Covenant were Muslim countries. Islam was a religion of equality, freedom and progress and he wished to know whether the implementation of the Covenant's provisions on freedom of conscience and religion created any practical problems in Jordan, and whether there were any difficulties with the sharing of decision-making responsibility within the family and the exercise of parental authority over children. Moreover, was decision-making responsibility in public affairs allocated to Muslims and non-Muslims exclusively on the basis of competence and the ability to perform their functions?

9. He wondered whether the points made in paragraph 40 (c) of the core document on Jordan (HRI/CORE/1/Add.18/Rev.1) concerning the precedence of international covenants and treaties over national legislation were justified.

10. Mr. ABUL-ETHEM (Jordan), replying to a question raised earlier about equality of the sexes, explained that Jordanian law made no distinction between men and women: it was tradition, and not the law, that limited the involvement of women in politics. Many women preferred to marry and to devote themselves to their roles as wife and mother.

11. In reply to one member of the Committee who had stated that, according to information available to him, testimony given by a women was only half as valid as that of a man, he said that there was nothing in Jordanian legislation to indicate that that was so; court practice revealed that judges assessed all testimony regardless of the sex of the person giving it. He had found that to be the case throughout his legal career; the verdicts handed down by courts made it quite clear. Any judgement which accorded less value to a woman's testimony would be quashed by a higher court.

12. In respect of inheritance, a distinction must be made between immovable property - land, for example - and movable property. A woman's share of any immovable property inherited was equal to that of a man but less in the case of movable property.

13. The question of the nationality of a child born of a Jordanian woman and a foreigner had already been raised by the Committee on the Rights of the Child, whose comments had been duly transmitted to the competent authorities.

14. With respect to spouse abuse, it should be noted that since women had the right to institute legal proceedings, they could bring a case before a court of first instance, which would resolve the dispute as a case of violence committed by one individual against another, irrespective of sex. While

courts did sometimes have to deal with such cases, the fact remained that in Jordan, as in many other areas of the world, women generally preferred to settle such problems within the family.

15. In the area of education, it should be noted that the Government had built and maintained coeducational establishments at the primary, secondary and university level. Fifty-nine per cent of all teachers were women and, obviously, they had degrees.

16. The members of the Committee who had expressed concern about the effect of the declaration of the state of emergency should rest assured that the exercise of fundamental rights was in no way lessened by such a measure. Although the laws in force no longer applied in such cases, the derogation itself was subject to very strict conditions, and a state of emergency usually remained in force only for a very brief period.

17. The independence of the judiciary was rigorously respected. Judges were appointed by the Supreme Council of the Judiciary, which consisted of 10 high-ranking judges. They were not appointed by the Government, which was not involved in any way in the appointment, promotion, transfer and dismissal of judges. He could attest to the fact that the executive branch had never intervened in the work of the courts in which he had served. As to the remuneration of judges, their salaries had recently been increased, but there was still room for improvement.

18. The Constitutional Court had the task of interpreting the articles of the Constitution, where necessary. It consisted of the Chairman of the Council of Notables, who also presided over the Senate, as well as three members of the Council of Notables and five judges chosen from among those with the greatest seniority on the Court of Cassation.

19. To allay the doubts expressed by one member of the Committee, he pointed out that though most of the rights set out in the Covenant were guaranteed to Jordanians, that in no way precluded foreigners from exercising those rights - on the contrary, they enjoyed the same rights.

20. As for the steps taken to familiarize Jordanian citizens with the substance of the Covenant, be explained that the Government made every effort to inform the public about matters covered by that instrument and encouraged non-governmental organizations to do the same. Nevertheless, owing to the State's limited resources, information was not disseminated as widely as might be desirable. On the other hand, police training was satisfactory. Lectures on human rights were given regularly at the police academy (which provided training for future police officers), currently with the participation of the Jordanian chapter of Amnesty International.

21. He recognized the fact that the Jordanian media possibly failed to provide an adequate picture of the Government's efforts and achievements in the field of human rights; that was unfortunate as if they were to do so foreigners would have a better image of Jordanian society.

22. The CHAIRMAN invited the Jordanian delegation to respond to the questions in section II of the list of issues, namely:

"Right to life, treatment of prisoners and other detainees, liberty and security of the person and right to a fair trial (arts. 6, 7, 9, 10 and 14)

(a) How often and for what crimes has the death penalty been imposed and carried out in Jordan since the submission of the report?

(b) Is any revision of the law being contemplated with a view to curtailing the number and character of offences currently punishable by the death penalty?

(c) Please elaborate on measures taken to investigate cases where the rules and regulations governing the use of firearms by the police and security forces have been violated and outline clearly the powers of the special police court mentioned in the report (para. 31 (c)).

(d) Please provide information concerning cases of ill-treatment of detainees where perpetrators have been found guilty or punished and measures taken to avoid the recurrence of such acts (see paras. 31 (c) and 33 (a) of the report).

(e) What concrete measures have been taken by the authorities to eradicate torture and maltreatment of detainees and prisoners?

(f) Can confessions or testimony obtained under torture be used in court proceedings?

(g) Please provide information on arrangements for the supervision of reformatories and rehabilitation centres as well as any other detention centres and on procedures for receiving and investigating complaints.

(h) Please provide statistical information on appeals lodged by detainees with the Supreme Court (see para. 15 of the report).

(i) Please provide further information on provisions relating to incommunicado detention (see para. 32 of the report).

(j) Please describe the specific rules and regulations governing the treatment of prisoners and other detainees in cases of espionage (see para. 32 of the report).

(k) Please provide information concerning the organization and functioning of the Bar in Jordan."

23. Mr. ABUL-ETHEM (Jordan), referring first to the right to life, treatment of prisoners and liberty and security of the person, said that in its annual report for 1993 Amnesty International had noted that most political prisoners had been freed. It had welcomed the lifting of the state of emergency as well as a number of other measures to promote respect for human rights, including

the abrogation of certain provisions that had resulted in the incarceration of prisoners of conscience and of conscientious objectors. Amnesty International had likewise welcomed the fact that many individuals who had been sentenced to death in 1992 had not been executed.

24. With reference to subparagraph (a) of the list of issues, he noted that the Penal Code stipulated capital punishment only for the most serious crimes and in accordance with strict procedures. In 1993, the death penalty had been pronounced 10 times and commuted in 4 cases; in 1994, it had been pronounced 7 times and commuted in 5 cases, while the two remaining prisoners had been granted a pardon by the King. The law governing the application of the death penalty and the nature of offences punishable by it had not so far been changed.

25. Turning to the question in subparagraph (c) of the list of issues, he stated that very strict rules and regulations governed the acts of police officers, and any person who infringed them was brought before a special in-house police court competent to deal with any offence committed by a police officer on duty. Article 9 of the Public Security Act stated that certain officers could use force provided it was absolutely necessary, and as a last resort. Situations in which force could be used were duly listed in the Act.

26. Referring to subparagraph (d) of the list of issues, he noted that the Jordanian Penal Code contained a provision under which persons responsible for illegal arrest or deprivation of liberty were subject to punishment. Under article 5 of the Penitentiary Regime Act, the Prime Minister and the Ministers of the Interior and of Justice were able to visit all detainees. The Procurator-General and judges of courts of first instance had access to all prisons in the Kingdom and were entitled to visit any prisoner under their jurisdiction. Inspectors - including female inspectors for women prisoners - could also visit prisoners at any time. They were authorized to inspect prison registers and prison management and administration records in order to ensure that hygienic conditions were satisfactory, that the establishments were properly run, and that the relevant legislation and penal regulations were being complied with.

27. With regard to subparagraph (e), he said that the Jordanian authorities had taken steps to put an end to any ill-treatment of detainees. Among other things they regularly sent instructions to that effect to persons in charge of investigations and in general ensured that detainees were treated properly.

28. In the context of subparagraph (e), he noted that the Jordanian courts disallowed any confession or testimony obtained under duress or through torture. Confessions or statements obtained in that way were regarded as attempts to deflect the course of justice. Under article 63 of the Code of Penal Procedure, when an accused person was referred to the prosecutor following an identity check, the charges against him had to be read out. The prosecutor was then obliged to inform the accused that he had the right not to answer questions except in the presence of a lawyer. Under article 59 of the Code, in order for confessions made when the prosecutor was not present to be admitted as evidence, the prosecutor's office must submit a statement on the conditions in which the confession had been made. If the court found that the confession or statements had been made freely, they could be used as evidence.

In many instances judges had rejected confessions or statements because they were not absolutely sure that they had been made in proper conditions.

29. The State prosecutor was responsible for the supervision of detention centres. If a prison official committed an abuse in the exercise of his functions, he was brought before a police court.

30. In response to the request made in subparagraph (h), he explained that appeals were lodged by defence lawyers. The judiciary had received 40 appeals since the beginning of the year.

31. Complying with the request in subparagraph (i), he explained that each detention centre had several isolation cells, where the United Nations Standard Minimum Rules for the Treatment of Prisoners were fully respected. Incommunicado detention was in general governed by the Prisons Act.

32. With regard to subparagraph (j) of the list of issues, he explained that there were no special regulations on the treatment of persons imprisoned for espionage: they received the same treatment as other prisoners. The Prisons Act was always applied in the same way irrespective of the charge, except in the case of solitary confinement.

33. In response to the request set out in subparagraph (k), he noted that the Jordanian Bar had been established in 1950 and that, according to its statutes, lawyers were judicial officers responsible for providing legal aid to anyone at their request. They could represent their clients before all judicial and administrative courts, were competent to draw up legal documents and to provide legal advice and advisory opinions. All Jordanian lawyers were members of the Bar: no one could exercise the profession without being a member of that institution. A person wishing to become a lawyer had to undergo training by another lawyer who had been registered with the Bar for at least five years, submit a legal thesis for consideration by a group of judges and pass two exams, one written, the other oral. Once registered with the Bar, a lawyer could defend clients in any kind of trial whatever. The presence of a lawyer was mandatory in civil proceedings before a court of first instance and in appeals courts, the Court of Cassation and the High Court of Justice. In criminal cases, proceedings could begin in the absence of a defence lawyer unless the penalty incurred was a life sentence at hard labour or the death penalty. Needy persons who wished to institute legal proceedings could request the free services of a lawyer, who was appointed by the Bar.

34. The CHAIRMAN thanked the Jordanian delegation for its replies under section II of the list of issues and invited members of the Committee to continue the discussions.

35. Mr. BAN, referring to article 6 of the Covenant, welcomed the fact that the death penalty had been applied very rarely in Jordan and that nothing indicated that its application would increase in future. In the circumstances, could the authorities not envisage its abolition?

36. He wished to know more about the operation of the right of pardon referred to in paragraph 31 (a) of the report (CCPR/C/76/Add.1) and asked

whether the legislation on the subject was compatible with the provisions of the Covenant, and particularly with article 6, paragraph 4. The subparagraph he had just referred to indicated that the families of the victims had refused to exercise the right of pardon. What exactly did that mean?

37. He asked about abortion in Jordan: was it covered by any regulations? If so, he would like to know of them. He congratulated the Jordanian authorities on the remarkable progress made in the area of public health. In a period of 30 years, life expectancy had increased from 47 to 67 years, while infant mortality had dropped from 217 per cent to 55 per cent. Those extremely positive developments undoubtedly contributed to respect for the right to life.

38. Turning to article 7 of the Covenant, and more particularly to the question of incommunicado detention, he said the Jordanian delegation had essentially spoken of the isolation of one prisoner from others. What the Committee wanted, however, was information about the isolation of a prisoner from the outside world (the right to family visits, visits from lawyers, etc.). He would welcome further details on that specific point.

39. Referring to paragraph 16 of the report, in which it was stated that prison inmates were considered to be sick members of society, he requested clarification of the concept of sickness that the Jordanian authorities applied to prisoners: were such individuals truly ill? Lastly, he asked whether the provisions of article 14 of the Covenant relating to access to the courts and to the guarantee of a fair trial were fully respected in the cases covered by family law which were handled by religious courts.

40. Mr. AGUILAR URBINA said he shared the concern expressed by Mr. Ban regarding the right of pardon. He had noted from paragraph 31 (a) of the report that the right of pardon was exercised by the families of victims, which suggested that the decision could virtually never be an objective one. With regard to release on bail, to which "any individual who was charged with an offence that was not punishable by the death penalty ..." was entitled (para. 16 of the report), he asked whether refusal to accord such a measure might not contravene the principle of presumption of innocence. Since the death penalty was pronounced quite often in Jordan, he asked whether requests for release on bail were frequently granted. He also wondered whether the crimes committed were so serious as to justify such frequent application of the death penalty.

41. He had noted that juvenile offenders were segregated from adults "usually" in special social welfare institutions (para. 18). He would like to know whether in some cases juveniles were detained in the same institutions as adults, and what measures could possibly be taken to avert such situations. Concerning article 113 of the Code of Criminal Procedure referred to in paragraph 17 of the report, he asked who questioned an accused person, whether such a person was kept in custody for more than 24 hours and whether he had the right to the assistance of a lawyer.

42. The Jordanian delegation had indicated that the special courts had been abolished and that the military courts would also be abolished. He would like to know whether a distinction was made between the two categories of courts.

Lastly, he asked about a recent case in which an individual had allegedly been convicted of plotting against the King but had stated that his confession had been made under torture. He asked whether that information was correct and whether the verdict had been upheld.

43. Mrs. EVATT, referring to the implementation of articles 6 and 7 of the Covenant, said that Amnesty International had drawn attention to the great number of death penalties pronounced in Jordan over the past few years and had referred in particular to the case of two persons sentenced to death in 1976 who were still in prison, and whose penalties had neither been commuted nor carried out. If that was true, did it not constitute torture or inhuman treatment? When the King gave his opinion about a death penalty, was it for the purpose of granting a pardon or commuting the penalty? Concerning detention for political reasons, she pointed out an apparent contradiction between the statement that "no one had been detained on account of his political views" in paragraph 36 (b) of the report (CCPR/C/76/Add.1) and the statement in paragraph 12 that, since the lifting of martial law, many political detainees had been released. In that connection, she wished to know whether there were still any political prisoners in Jordan.

44. With regard to article 9 of the Covenant, she recalled that, during the consideration of Jordan's second periodic report, the Jordanian delegation had indicated that individuals did not have the right to bring proceedings against the Government for compensation in the event of illegal arrest. She would like to know whether those provisions had been modified in the legislative reform context. With regard to the use of torture, the elimination of which depended on a number of factors, including access of detainees to lawyers and to the courts and the relative length of pre-trial detention, she wondered about practices in detention centres that were under the sole authority of the Security Department. The Special Rapporteur on the question of torture had drawn the attention of the Commission on Human Rights to cases in which persons had been detained without charge for extensive periods and sometimes held incommunicado in detention centres administered by the Security Department. Jordan had refuted the allegations made by the Special Rapporteur; however, when some of the accused persons had been brought before the courts after having confessed, they had retracted their confessions, stating that they had been made under duress and under torture. Had those cases been resolved?

45. Lastly, while the law made no distinction between the validity of testimony made by men and women in civil courts, she wondered whether the same was true in religious courts. What legal system did those courts apply?

46. Mr. EL SHAFEI welcomed the new and positive developments in Jordan since the submission of the second periodic report and asked the Jordanian delegation to confirm a number of them. First of all, following the abolition in April 1992 of the special courts, how had pending cases been heard and in which courts? Second, regarding the draft law under which persons brought before State security courts could appeal to a higher court, he wished to know precisely what that court was. Third, he asked the Jordanian delegation to state whether military courts had indeed been abolished, as the Government implied in paragraph 13 of its report (CCPR/C/76/Add.1). Did the fact that the death penalty could be carried out only with the King's approval

constitute a real safeguard? Finally, he wished to know whether the law establishing a centre for democracy and human rights in the Arab world had been adopted, and whether the centre would be a non-governmental or governmental agency.

47. Mr. WENNERGREN asked whether the exception mentioned in paragraph 32 (e) of the report also applied to cases involving security. Paragraph 32 (a) indicated that the maximum period of pre-trial detention was five days, but that it could be extended in certain cases. He wished to know how long a person could be detained without having been charged and whether in some cases pre-trial detention had been unduly prolonged for months, even years. As he understood the procedure governing pre-trial detention, officials could order an individual to be arrested in order to prevent an offence being committed. Human rights activists had apparently been arrested in that way in Jordan's capital. How long could a person be detained for the sole purpose of preventing an offence being committed, and did that not raise the question whether the Jordanian legislation was truly in line with the Covenant's provisions guaranteeing the freedom of the individual?

48. Mr. BRUNI CELLI said he too wished to know whether the military courts had in fact been abolished, since the wording of paragraph 34 (e) of the report left a number of doubts on that subject. He would also like to know whether the draft prisons act mentioned in paragraph 33 (d) of the report had actually been drawn up and approved, and whether it had entered into force. In the context of implementation of article 7 of the Covenant, he recalled that the Special Rapporteur on the question of torture had cited a number of cases of torture in his report for 1994 and that Amnesty International, in its report for 1993, had reported allegations of ill-treatment and torture. Perhaps the Jordanian delegation could comment on that subject for the Committee. Finally, he wondered why the report made no mention of the implementation of article 11 of the Covenant.

49. The CHAIRMAN announced that the Jordanian delegation would reply to the questions raised by members of the Committee at its next meeting.

The meeting rose at 5.50 p.m.